

REMARKS

This application has been reviewed in light of the Office Action mailed February 22, 2008. Reconsideration of this application in view of the below remarks is respectfully requested. Claims 10 – 20 are pending in the application with Claims 10, 19 and 20 being in independent form.

I. Rejection of Claims 10 – 15 Under 35 U.S.C. § 103(a)

Claims 10 – 15 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over U.S. Patent No. 6,349,324 issued to Tokoro in view of U.S. Patent No. 7,206,589 issued to Kall et al.

Kall et al. is a national phase of a PCT Application filed prior to AIPA. Specifically, Kall et al. was filed as a PCT on June 30, 1999 and published as PCT Publication No. WO01/03461 on January 11, 2001. Consequently, for purposes of availability of Kall et al. as prior art under 35 U.S.C. § 102/103, the relevant date is the § 371(c)(1), (2), (4) date of February 21, 2002. However, the present application claims priority from Japanese Application No. 150102/2000 dated May 22, 2000. Consequently, Kall is not available as prior art. Therefore, the present rejection with respect to Claims 10 – 15 will be treated as being based on the teaching and suggestion of Tokoro alone.

As the Examiner has conceded in a previous Office Action, Tokoro fails to specifically disclose both a cellular telephone apparatus and an accessory comprising a channel monitoring means for monitoring channel quality of the sub-communications means and a control means for notifying the cellular telephone set of a deterioration in channel quality of the sub-communications means to a level no more than a predetermined level, causing the cellular apparatus to start originating a call.

However, the Examiner asserts that Tokoro suggests the above-identified limitation because, as the Examiner contends, deterioration of a channel or communications path can occur as a result of the user moving away from the accessory, thus rendering the utilization or employment of the image display means unnecessary at that particular instant. However, while one can say that, once the sub-communications means deteriorates below an acceptable predetermined level, the image display means is no longer useful or necessary, that does not lead to the conclusion that the cellular apparatus disclosed in Tokoro necessarily will or even should start originating a call for voice communication with a remote cellular telephone set. Based on the teachings in Tokoro, the sub-communication with the accessory would be terminated with no further action being performed by the cellular apparatus. The Examiner has not provided an explicit analysis of the reasons why the claimed subject matter would be suggested by an alleged deterioration of the communication path between the cellular apparatus and the accessory. (See: *KSR v. Teleflex*, 82 USPQ2d 1385, 1396).

The original communication connection between the base station and cellular telephone set used to supply the data for the television-telephone conversation, as disclosed in Tokoro, is maintained even if the sub-communication with the television is degraded, thus the audio is still receivable over the original communication connection. This does not suggest a need for the Tokoro apparatus to start originating a new call for voice communication with a remote cellular telephone set other than the call used by the cellular telephone set to perform the sub-communication means, as recited in Applicant's Claim 10, and similarly in Claims 19 and 20.

The Tokoro apparatus does not start originating a new call for voice communication with a remote cellular telephone set other than the call used by the cellular telephone set to perform the sub-communication means when the channel quality of the sub-communication means has

deteriorated to not more than a predetermined level. Rather, Tokoro discloses that the user can temporarily suspend the sub-communication and continue the communication as voice only. The user can resume the television-telephone conversation once a television is again in range by operating the television-telephone button. (See: Tokoro, col. 14, lines 44 – 51).

It is evident that the Tokoro apparatus makes only one call to a remote telephone, and only the transmitter used to perform the television-telephone conversation is disengaged when the user turns off the television-telephone button. The call to the remote telephone however remains established. Therefore, Tokoro does not originate a new call for voice communication when the channel quality of the sub-communication means has deteriorated. Rather, Tokoro simply disengages the transmission to the television, while maintaining the original call so that the conversation can be continued as a voice-only conversation. Consequently, Tokoro teaches away from the functioning of Applicant's invention recited in independent Claim 10. (See: KSR v. Teleflex, 82 USPQ2d at 1399).

Moreover, Applicant's claimed invention provides that a cellular telephone transceiver means starts originating a new call for voice communication with a remote cellular telephone set when the channel quality of the sub-communication means has deteriorated to not more than a predetermined level, the new call being other than a call used by the cellular telephone set to perform sub-communication with the accessory. This feature is also not disclosed or suggested by Tokoro.

Therefore, for at least the reasons provided above, Claims 10 – 15 are believed to be allowable over the cited prior art references. Accordingly, Applicant respectfully requests withdrawal of the rejection with respect to Claims 10 – 15 under 35 U.S.C. § 103(a) over Tokoro.

II. Rejection of Claims 16 – 20 Under 35 U.S.C. § 103(a)

Claims 16 – 20 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over Tokoro in view of Kall et al. and further in view of U.S. Patent No. 5,880,732 issued to Tryding.

As presented above, Kall is not available as a prior art reference. Therefore, the present rejection with respect to Claims 16 – 20 will be treated as being based on the teaching and suggestion of Tokoro in view of Tryding.

Tryding discloses an apparatus for enabling use of a display monitor with a mobile telephone. Tryding does not disclose a control means causing a cellular telephone transceiver means to start originating a new call for voice communication with a remote cellular telephone set when a channel quality of sub-communication means has deteriorated to not more than a predetermined level. Hence, Tryding does not overcome the deficiencies of Tokoro.


Therefore, for at least the reasons presented above, Claims 16 – 20 are believed to be allowable over the cited prior art references. Accordingly, Applicant respectfully requests withdrawal of the rejection with respect to Claims 16 – 20 under 35 U.S.C. § 103(a) over Tokoro in view of Tsai and further in view of Tryding.

CONCLUSIONS

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 10 – 20 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicant's undersigned attorney at the number indicated below.

Respectfully submitted,



Paul J. Esatto, Jr.
Registration No. 30,749

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza - Ste. 300
Garden City, New York 11530
(516) 742-4343

PJE/DAT:jam